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1	IN THE COURT OF APPEALS OF THE STATE OF ALASKA
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3	STATE OF ALASKA )
4	Petitioner, )
5	) Court of Appeals No. A-13326
6	VS. )
7	HARRY NORMAN POWELL,
0	Respondent.
8	Superior Court No. 3AN-17-07280CR
9	NOTICE OF DEATH OF MR. POWELL
10	
11	I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an
12	address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court. I further certify that the type font is Times New Roman 13.
13	Harry Norman Powell has died of COVID-19 while in pretrial custody in this case.
14	
15	Undersigned counsel spoke with Mr. Powell's eldest daughter this morning. She
16	expressed that the family wishes for this appeal to be decided, despite Mr. Powell's death.
17	The issues presented in this case require this Court to weigh the "grave
18	inconveniences" of a felony indictment. That phrase is chilling here. Mr. Powell did not
19	suffer merely from inconveniences; he was sent to his grave.
20	surfer merery from meonvemences, he was sent to his grave.
21	In deciding this case this Court must not overlook or understate the very real
22	consequences of pretrial incarceration on criminal defendants. These consequences make it
23	essential that courts enforce robust safeguards to ensure the reliability of an indictment,
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25	including the foundational requirements specified in Evidence Rule 801(d)(3).
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## 1016 West 6th Avenue, Suite 100, Anchorage, AK 99501 OFFICE OF PUBLIC ADVOCACY

Undersigned counsel asks that this case not be dismissed as moot, given the fundamental importance of the issues involved. 1

DATED at Anchorage, Alaska on December 11, 2020.

This is to certify on 12/11/2020 a copy of the foregoing is being emailed:

hazel.blum@alaska.gov ocapleadings@alaska.gov

s/Brooke Berens/

OFFICE OF PUBLIC ADVOCACY Appeals and Statewide Defense

By s/Brooke Berens/ **Brooke Berens** Alaska Bar No. 1005014 Assistant Public Advocate

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<sup>&</sup>lt;sup>1</sup> See Hayes v. Charney, 693 P.2d 831, 834 (Alaska 1985) (In assessing whether to apply the public interest exception to the mootness doctrine, court evaluate whether the issues are capable of repetition, whether they may repeatedly circumvent review, and whether they are of sufficient public importance. These factors are not strictly determinative, and appellate court retain discretion to review moot questions.).